

**WEST PENNSBORO TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. #2010-04

AN ORDINANCE OF WEST PENNSBORO TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA, ESTABLISHING THE AUTHORIZATION, APPLICATION PROCEDURE AND OVERSIGHT OF SOLICITATION ACTIVITIES FOR TRANSIENT RETAIL BUSINESS ACTIVITY (ALSO KNOWN AS PEDDLING) WITHIN WEST PENNSBORO TOWNSHIP

WHEREAS, West Pennsboro Township (hereinafter “Township”) deems it necessary to establish procedures for the authorization and control of solicitation and peddling activities within the Township of West Pennsboro.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of the Township of West Pennsboro, Cumberland County, Pennsylvania, as follows:

**SECTION 1
SHORT TITLE**

This Ordinance shall be known and may be cited as the “Township Transient Retail Business Ordinance.”

**SECTION 2
DEFINITIONS AND INTERPRETATION**

- A. As used in this Ordinance, the following terms shall have the meanings indicated:

AUTHORIZATION – License; but shall not connote a tangible document to be carried or possessed by the licensee.

PERSON – Includes any natural person, partnership, association, firm or corporation.

PROMOTER – Any person (as defined in this Ordinance) who organizes the gathering of five or more persons (as defined in this Ordinance) engaged in transient retail business.

SIDEWALK AND GARAGE SALES- The sale of household goods owned by a Township resident conducted on an individual basis or in coordination with other Township residents.

TRANSIENT RETAIL BUSINESS – Includes the following:

1. Engaging in peddling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or

merchandise, upon any street or alley, sidewalk or public ground, or from house to house, within West Pennsboro Township; and

2. Selling, soliciting or taking orders for any goods, wares or merchandise from a fixed location within the township, on a temporary basis, which shall include, but shall not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays.
3. Transient retail business shall not include sidewalk and/or garage sales.
4. Transient retail business shall not include school students through and including the 12th grade who engage in peddling, canvassing, soliciting or taking orders for any school-approved activity or for any activity sanctioned by a nonprofit organization or group.

- B. In this Ordinance, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

SECTION 3

AUTHORIZATION REQUIRED TO ENGAGE IN BUSINESS; FEES; EXEMPTIONS

- A. No person shall engage in any transient retail business within West Pennsboro Township without first having obtained from the Township Manager, or authorized representative authorization to do so, for which the following fees, which shall inure to the Township, shall be charged:
1. One week: as set from time to time by resolution of the Board of Supervisors.
 2. One month: as set from time to time by resolution of the Board of Supervisors.
 3. One year: as set from time to time by resolution of the Board of Supervisors.
- B. No authorization fee shall be charged under this section:
1. To farmers selling their own produce.
 2. For the sale of goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable, religious or philanthropic purpose.
 3. To any manufacturer or producer in the sale of milk or milk products, bread and bakery products, or meat and meat products, but all persons exempted hereby from the payment of the authorization fee shall be required to register with the Township

Manager or authorized representative and obtain authorization without fees.

- C. Any person dealing in one or more of the above-mentioned exempted categories and dealing with other goods, wares or merchandise not so exempted shall be subject to the payment of the authorization fee fixed by this section for his activities in connection with peddling, canvassing, soliciting or taking orders for goods, wares and merchandise not in such exempted categories.
- D. The Board of Supervisors may similarly exempt from payment of the authorization fee, but not from registering, persons working without compensation and selling or taking orders for goods, wares or merchandise for the sole benefit of any nonprofit corporation.
- E. Every authorization granted under the provisions of this Ordinance shall be granted on an individual basis to persons engaging such business; every individual shall obtain an authorization, granted to him in his name, and the authorization fee hereby imposed shall be applicable to every such individual authorization.

SECTION 4
REPRESENTATION BY PROMOTER; FEES

- A. In lieu of the requirements imposed by Section 3 of this chapter, a promoter representing five or more persons engaged in transient retail business may, on behalf of such persons, obtain the authorization provided for in Section 3 of this Ordinance, in which case such authorization shall be granted to such promoter in his name, for which the following fees, which shall be for the use of the Township, shall be charged.
 - 1. For one day for every person represented by such promoter, up to and including 100 persons: as set from time to time by resolution of the Board of Supervisors.
 - 2. For one day for every person represented by such promoter in excess of 100 persons: as set from time to time by resolution of the Board of Supervisors.
- B. The fee exemptions set forth in Section 3 of this Ordinance shall apply in instances where a group of person engaged in transient retail business falling into one or more of the exempted categories are represented by a promoter.

SECTION 5
APPLICATION FOR AUTHORIZATION

- A. Application required.
 - 1. Except as provided in Subsection B of this section, every person desiring to engage in a transient retail business

within the Township shall first make application to the Township Manager or authorized representative for authorization on a form to be furnished by the Township. The application, when completed, shall be verified by an oath or affirmation. Where a person makes application for himself and one or more helpers, an application form shall be completed for each helper. The required fee shall accompany the application. A receipt clearly marked "This is not a permit," or words to that effect, shall be issued in return for each fee.

2. In lieu of the requirements of Subsection A. 1. Of this section, a promoter representing five or more persons engaged in transient retail business within the Township may, on behalf of such persons, make application to the Township Manager or authorized representative for authorization, on a form to be furnished by the Township. The application shall be verified by oath or affirmation. The required fee shall accompany the application. A receipt clearly marked "this is not a permit," or words to that effect, shall be issued in return for each fee.

B. In the case of any person desiring to engage in a transient retail business by working without compensation for the sole benefit of a nonprofit corporation or in the case of a promoter representing five or more such persons, such person or promoter shall make written application to the Board of Supervisors, setting forth the names and addresses of all persons who shall be so engaged in a transient retail business with him, and, if such application shall be approved by the Board, authorization may be granted by the Township Manager or authorized representative without fee, covering all such persons, which authorization shall be valid on the day or days designated under the terms of the authorization as granted.

SECTION 6

INVESTIGATIONS AND GRANTING OF AUTHORIZATION

- A. Upon receipt of such application, the Township Manager or authorized representative shall cause such investigation of the applicant's business or organization and moral character to be made as he deems necessary for the protection of the public welfare.
- B. If, as a result of such investigation, the applicant's business or organization or moral character is found to be unsatisfactory, the Township Manager or authorized representative shall endorse on such application his disapproval and his reasons for the same, and return said application to the applicant.
- C. If, as a result of such investigation, the business or organization and moral characters of the applicant are found to be satisfactory, the Township

Manager or authorized representative shall endorse on the application his approval and record the name of the applicant, date, duration of authorization, and other data of public interest which he deems relevant in a book of "Peddling Authorizations Granted," which shall be available for public inspection at reasonable times. The Township Manager or authorized representative shall keep a permanent record of all applications made, authorizations granted, and authorizations refused. No evidence of authorization shall, however, be issued in tangible form to the person authorized.

SECTION 7
PROHIBITED ACTS

No person engaging in any transient retail business, when working from house to house, shall engage in such business at any time on Sundays or official holidays, or upon any other day of the week prior to 10:00 a.m., prevailing time, and shall cease at sunset or 7:00 p.m., prevailing time, whichever shall first occur, except that this prohibition shall not apply to any person who shall have made an advance appointment with a prospective customer for a specific day and hour.

SECTION 8
DENIAL OR REVOCATION OF AUTHORIZATION

Authorization may be denied, or authorizations granted under the terms of this Ordinance may be may be revoked, by the Township Manager or authorized representative for any of the following causes:

- A. Fraud, misrepresentation, or false statement contained in the application for authorization;
- B. Fraud, misrepresentation or false statement made in the course of the business of the person authorized or seeking authorizations;
- C. Any violation of this Ordinance;
- D. Conviction of a crime involving moral turpitude; or
- E. Conduct of a person authorized, or seeking authorization, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

SECTION 9
APPEAL FROM DENIAL OR REVOCATION OF AUTHORIZATION

Any person aggrieved by the action of the Township Manager or authorized representative in denying authorization, or in the decision with reference to the revocation of authorization, shall have the right of appeal to the Board of Supervisors of West Pennsboro Township. Such appeal shall be taken by filing with the Board, within five days after notice of the action complained of has been mailed to such person's last address or otherwise placed in his possession, a written statement setting forth the grounds for the appeal. The Board of Supervisors shall set a time and

place for a hearing on such appeal, which hearing may be set at the time and date of the regularly scheduled Board of Supervisors Meeting and shall be held not later than 30 days after the date of such filing. The Board of Supervisors may take whatever action with respect to the matter that it deems appropriate.

SECTION 10
VIOLATIONS AND PENALTIES

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a District Magistrate under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$200 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

SECTION 11
CONSTRUCTION AND INTERPRETATION; SEVERABILITY

If any section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect or impair the validity of the Ordinance as a whole, or any other section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the ordinance. The Board of Supervisors hereby declare that it would have adopted this ordinance and each section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more of the sections, sub-sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

SECTION 12
REPEALER

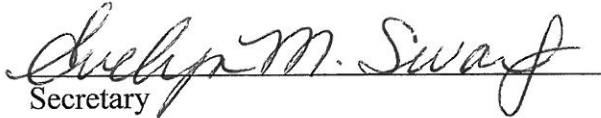
This Ordinance shall repeal any inconsistent Ordinances.

SECTION 13
EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after adoption by the Board of Supervisors of West Pennsboro Township.

Enacted and ordained this 26 day of April, 2010 by the Board of Supervisors of West Pennsboro Township.

ATTEST


Secretary


Chairman

CERTIFICATE

I, the undersigned, Secretary of the Township of West Pennsboro, Cumberland County, Pennsylvania (the "Township"), certify that the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township which was duly enacted by affirmative vote of a majority of the members of the Board of Supervisors of the Township at a meeting duly held on April 26, 2010, that said Ordinance has been duly recorded in the Ordinance Book of the Township; that said Ordinance was duly published on April 10, 2010, as required by law in a newspaper of general circulation in the Township; and that said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the meeting at which the Board of Supervisors of the Township adopted said Ordinance was a public meeting duly held after giving public notice of the date, time and place of such meeting by posting, publishing and mailing such notice at the time and in the manner required by Act No. 84 of the General Assembly of the Commonwealth of Pennsylvania, approved July 3, 1986.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 26 day of April, 2010.

Secretary

Dwilyn M. Swaff

